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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/522,108	03/09/2000	Jeffrey A. Schriebman	6425/53530	3285
30505	7590	02/02/2004	EXAMINER BOCCIO, VINCENT F	
MARK J. SPOLYAR 38 FOUNTAIN ST. SAN FRANCISCO, CA 94114			ART UNIT 2615	
			PAPER NUMBER	

DATE MAILED: 02/02/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/522,108

Applicant(s)

SCHRIEBMAN, JEFFREY A.

Examiner

Vincent F. Boccio

Art Unit

2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-49 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 3/9/00 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 6) ☐ Other: .

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DETAILED ACTION

The Group and/or Art Unit location of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Group Art Unit 2615.

Drawings

1. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kinghorn (US 6,192,187) taken with the disclosed prior art applicant's disclosure pages 1-2, Fig. 1.

Regarding claims 1, 8, 10-11, 19 Kinghorn discloses and meets the limitations associated with a method for encoding control data in a video data stream, comprising:

{a} generating an image data file comprising presentations of desired control data (col. 2, lines 45-) ;

{b} merging the image data file with an underlying video data file, in the VBI (col. 4-5, video file generated to recorder) to produce a combination of a video data file with control data (cols. 2-3, 11).

Kinghorn merges the closed caption control data to the VBI of the video on the tape (col. 4, line 60 to col. 5, line 12), but, Kinghorn fails to disclose wherein the image data file

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comprises pixel representations of desired control data and wherein the video is not referred to as a master.

Regarding claims 2-3, Kinghorn further fails to disclose step c after step b, performing recording the master video file to a suitable storage medium, such as a tape, wherein the master is the merged file.

The prior art in Fig. 1, teaches creating the master, wherein the closed caption instructions can be created on a computer wherein these instructions are of pixel representations in view of on a computer platform, to facilitate the creation of a master tape, thereafter to be rerecorded to from the master (2) to another tape (4), as taught by the prior art.

Therefore, it would have been obvious to one skilled in the art at the time of the invention to modify Kinghorn by incorporating the prior art computer platform for a higher level of versatility and functionality, providing a computer to facilitate a higher level of user control, in the creation and merging of caption to video, creating a master tape to be re-recorded, as is well known, as taught by the combination of the prior art and Kinghorn.

Regarding claim 4, the combination further fails to particularly mention a non linear editing machine.

The examiner takes official notice that non-linear editing machines are well known capable of performing and controlling non-linear as well as linear type media, such as tape and disk recording, therefore, it would have been obvious to one skilled in the art at the time of the invention to provide a non-linear editing computer to provide user a higher level of functionality and control for editing desired control data, as desired, as suggested by the combination.

Regarding claims 5-6, 9, the combination as applied fails to particularly mention wherein the control data spans across one horizontal line, comprises at least two lines of video data, wherein the line of line 21.

The examiner takes official notice that storing on line 21 is well known and obvious, wherein the control data spans across one horizontal line or at least two lines is considered to be obvious based on the amount and where the control data is to be recorded, therefore it would have been obvious to one skilled in the art at the time of the invention to have the control data span one horizontal line, or at least two lines based on the amount of control data (or even is duplicated) further to record to specifically line 21, is obvious to those skilled in the art at the time of the invention.

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Regarding claim 7, the combination further fails to mention that the encoded data, Kinghorn a multi-level code superimpose in the VBI has a initialization sequence, the examiner takes official notice that upon detecting a digital code information that a sync patten or frame code or ID is detected first, to identify the data for decoding, thereafter, as is well known, therefore, it would have been obvious to use an initialization code, frame code or an ID code on the multi-level code data to identify the beginning of the coded data, as is obvious if not inherent to the encoding of the digital data in the VBI.

Claim 12 is analyzed and discussed with respect to the claims above, but, further recites inserting control data according to command directives wherein the elements of the data structure represent time points (col. 2, lines 45-55, "causing a video tape to wind to a defined position").

Claims 13-15 are analyzed and discussed with respect to the claims above, but claims 13-15, recite an additional limitation of wherein the control data is converted into byte code representations according to a specification prior to merging (col. 4, lines 4-, "multi-level code"), wherein the converted control data or the multilevel code is merged therefore, the video is editing with the information.

Regarding claims 16-18, the combination fails to disclose wherein the storage medium of a digital video cassette, wherein the video is digital to the tape and merging auxiliary data to the digital video.

The examiner takes official notice that digital tape recording media and systems are well known and it would have been obvious to one skilled in the art to utilize digital tape media and to perform the merging of control data to the digital video, wherein the digital media allows for recording video into a digital format lending the video to digital error correction techniques, as is well known to those skilled in the art.

Regarding claims 20, 22, the combination further discloses control data as script, comprising commands directives and control data inserted (Kinghorn col. 11, "MHEG-5" and Hypertext Mark Up Language HTML, hypertext links, also see cols. 7-10").

Regarding claim 30, the combination as applied fails to address, wherein the pixel representations is a gray scale pixel representation.

The examiner takes official notice that providing control data in gray scale or any other color is an obvious design choice to one skilled in the art, therefore, it would have been an obvious design choice to choose a gray scale for the pixel representations of the control data, as is well known.

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Regarding claims 25-27, the combination as applied provides and meets the limitations of array and arrays of information single or parallel (Kinghorn Fig. 6a, also see cols. 7-8 and col. 2), wherein the array or arrays correspond to recorded video locations (col. 5, lines 44-, "start & finish index counter"), therefore image frames, also arrays read on providing coordinate information X, Y for the screen provided in the multi-level code or control data in order for a user to interact with the decoded VBI to locate and control the tape unit and/or Figs. 6 A-B, arrays of information, or even other (col. 11, "HTML, hypertext").

Claims 28-49 have been analyzed and discussed with respect to the claims above, but, claims 43 and 47 further recites user interface for input of control and commands (met by the combination of the prior art "computer keyboard" and Kinghorn "11"), wherein the computer having memory is inherent, wherein even Kinghorn meets the limitation of a memory to store control data and command directives.

The claim limitations of claims 1-49, are deemed met and obvious by the combination as applied.

It is further noted that in the discussion of the prior art, to perform the closed caption encoding with existing systems or traditional techniques require expensive special purpose software and hardware, wherein applicant is claiming broadly in the independent claims a system for performing similar encoding techniques to the VBI or to the video, but applicant is deemed to not be patentable distinguishable by the claims presented, further the higher expense \$\$ of prior system which can be implemented to more modern even cheaper systems is in view of progress in technology and taking advantage of cheaper more modern processing systems is in itself, not patentable.

Contact Fax Information

Any response to this action should be mailed to:
Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 872-9314, (for formal communication intended for entry)

or:

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(703) 308-5359, (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).


Contact Information

1. Any inquiry concerning this communication or earlier communications should be directed to the examiner of record, Monday-Thursday, 8:00 AM to 5:00 PM Vincent F. Boccio (703) 306-3022.

If any attempts to reach the examiner by telephone are unsuccessful, the examiners supervisor, Andy Christensen (703) 308-9644.

Any inquiry of a general nature or relating to the status of this application should be directed to Customer Service (703) 306-0377.

Primary Examiner, Boccio, Vincent
1/26/04


VINCENT BOCCIO
PRIMARY EXAMINER